

**REMARKS**

Reconsideration of the above-identified application in view of the foregoing amendments and the following remarks is respectfully requested.

**A.     Status of Claims and Explanation of Amendments**

Claims 1-18 are pending. The Abstract of the Specification is amended. Claims 1-3, 5, 7-11, 13, 15-17 are amended. Claims 4, 6, 12, 14 and 18 are cancelled without prejudice or disclaimer.

The Abstract of the Specification is amended to recite:

An image processing apparatus includes an alteration unit and a control unit. The alteration unit alters a first image file stored in a removable storage medium in order to generate a second image file. The control unit controls to store the second image file in the storage medium without deleting the first image file from the storage medium, if the first image file includes authentication data that is used to authenticate whether the first image file has been altered.

Claim 1 is amended to recite, *inter alia*, “an alteration unit that alters a first image file stored in a removable storage medium in order to generate a second image file; and a control unit that controls to store the second image file in the storage medium without deleting the first image file from the storage medium, if the first image file includes authentication data that is used to authenticate whether the first image file has been altered.” Similar amendments are made to claims 2-3, 5, 7-11, 13, 15-17. Support for this amendment is found throughout the application as originally filed, including, for example, on page 15.

Additional claims are amended to change, alter and/or add idiomatic expressions. For instance, claim 9 is amended to change “An image processing method” to “A method of controlling an image processing apparatus, comprising . . . .” Also, claims 1-3, 7-11, 15, 16 are amended to change the word “said” to “the”. These amendments are not made for any

substantial reason related to patentability, (§§ 102, 103), and they are not intended to narrow claim scope.

Claim 17 is amended to recite, *inter alia*, “[a] computer-readable medium storing a computer program for realizing by a computer the method according to claim 9.” Support for this amendment is found throughout the application as originally filed, including, for example, on page 45.

No new matter will be added to this application by entry of these amendments. Entry is requested.

With respect to the merits, Claims 1-8 and 17 were rejected under 35 U.S.C. § 101 because they are allegedly directed to non-statutory subject matter. Claims 1-18 were rejected under 35 U.S.C. § 103(a) as being allegedly not patentably distinct from U.S. Patent No. 6,968,058 to Kondoh et al., (“Kondoh”), in view of U.S. Patent Application Publication No. 2004/0013268 by de Queiroz, (“de Queiroz”), and in further view of U.S. Patent No. 7,154,535 to Yamasaki et al., (“Yamasaki”).

Because claims 4, 6, 12, 14 and 18 are cancelled, their rejection by the Office Action is moot.

**B. Claims 1-8 and 17 Are Directed to Statutory Subject Matter**

Independent claim 1 and dependent claims 2-8 were rejected under 35 U.S.C. § 101 for allegedly claiming non-statutory subject matter. By this paper, claim 1 is amended to recite, *inter alia*, “an alteration unit . . . and a control unit . . .” Accordingly, the rejection of claims 1-8 under § 101 is respectfully requested to be withdrawn.

Claim 17 was also rejected under § 101 for allegedly claiming software *per se*. By this paper, claim 17 is amended to recite, *inter alia*, “[a] computer-readable medium storing a

computer program for realizing by a computer the method according to claim 9.” Accordingly, the rejection of claim 17 under § 101 is respectfully requested to be withdrawn.

**C.     Claims 1-17 Are Patentably Distinct from Kondoh  
in View of de Queiroz, and in further view of Yamasaki**

Applicants respectfully traverse the rejection. Applicants assert that the requirements of this rejection are not met because neither Kondoh, de Queiroz, nor Yamasaki disclose, teach or suggest a control means for, if authentication data is added to the first file image, recording the second image file onto the recording medium without deleting the first image file, as recited in Applicants’ claim 1.

Specifically, Applicants’ claim 1 recites:

“1. An image processing apparatus comprising:

an alteration unit that alters a first image file stored in a removable storage medium in order to generate a second image file; and

a control unit that controls to store the second image file in the storage medium without deleting the first image file from the storage medium, if the first image file includes authentication data that is used to authenticate whether the first image file has been altered.”

The Office Action admits that Kondoh does not teach “a control means for, if authentication data is added to said first image file, record said second image file onto said recording medium without deleting said first image file.” (Office Action, p. 4).

de Queiroz is directed to a method for authentication of JPEG image data. de Queiroz teaches that a hashing function produces authentication data that is encrypted into a signature string, which is embedded into the image data. (de Queiroz, p. 4, ¶ 0040). The image data, with encrypted and embedded authentication data, can then be transmitted to a recipient. (de Queiroz, p. 4, ¶ 0040). The Office Action asserts that this “implies a control means which

only records a second image file if authentication data is added to the first image file.” (Office Action, p. 4).

Applicants respectfully disagree. de Queiroz teaches that an image file embedded with authentication data is recorded at a second location. (de Queiroz, p. 4, ¶ 0040). By recording the embedded image file at a second location, de Queiroz cannot therefore imply a control means inside a single image processing apparatus. Even assuming de Queiroz does teach a control means—which it doesn’t—at most it suggests a control means that transmits an image file only if authentication data is embedded into the file. Therefore, the most that de Queiroz teaches is that if authentication data is embedded into an image file, then the control means does something with it, *i.e.*, transmits it somewhere. That, however, does not suggest a control means. Rather, that simply suggests another step in a method. It would thus not have been obvious to one of ordinary skill in the art to combine Kondoh’s camera with de Queiroz’s method in order to create a control unit as recited in Applicants’ claim 1.

The Office Action admits that de Queiroz does not disclose “recording of the second image file without deleting the first image file.” (Office Action, p. 5). Rather, the Office Action asserts that Yamasaki discloses “recording a second image file without deleting a first image file.” (Office Action, p. 5).

Applicants respectfully disagree. Yamasaki is directed to a digital camera capable of directly accessing images recorded on another digital camera. Specifically, Yamasaki discloses that “[w]hen a user clicks a shutter provided in a main body of the digital camera (10), the image generation section (12) generates image data which represents the object and index data which is associated with the image data.” (Yamasaki, Col. 5, Lines 26-29, emphasis added). (Further, the index data may be thumbnail image data.) (Yamasaki, Col. 5, Lines 33-34).

Accordingly, Yamasaki discloses that image data and the thumbnail image are generated at the same time. They are thus two independent and separate files. At most, therefore, Yamasaki teaches that two separate files, which are generated simultaneously, are each recorded without deleting each other. It does not disclose, however, a first image file that is altered to generate a second image file, nor does it disclose, teach or suggest how that second image file is recorded, nor whether that second image file is recorded with or without deleting the first image file. Yamasaki thus does disclose, teach or suggest altering “a first image file . . . to generate a second image file . . . [and storing] the second image file in the storage medium without deleting the first image file from the storage medium . . .,” as recited in Applicants’ amended claim 1.

Therefore, neither Kondoh, de Queiroz nor Yamasaki disclose, teach or suggest each element of Applicants’ claim 1, and claim 1 is therefore believed to be in condition for allowance. For at least similar reasons, dependent claims 2-8 are also believed to be in condition for allowance.

The analysis of claim 1 is equally applicable to independent claim 9, and thus, for at least similar reasons discussed above, claim 9 is believed to be in condition for allowance. For at least similar reasons, claims 10-17 are also believed to be in condition for allowance.

\* \* \*

Applicants have chosen in the interest of expediting prosecution of this patent application to distinguish the cited documents from the pending claims as set forth above. These statements should not be regarded in any way as admissions that the cited documents are, in fact, prior art. Likewise, Applicants have chosen not to swear behind the cited references or to otherwise submit evidence to traverse the rejection at this time. Applicants, however, reserve the

right, as provided by 37 C.F.R. §§ 1.131 and 1.132, to do so in the future as appropriate. Finally, Applicants have not specifically addressed the rejections of the dependent claims. Applicants respectfully submit that the independent claims, from which they depend, are in condition for allowance as set forth above. Accordingly, the dependent claims also are in condition for allowance. Applicants, however, reserve the right to address such rejections of the dependent claims in the future as appropriate.

### CONCLUSION

Applicants respectfully request reconsideration and withdrawal of the rejection of Claims and allowance of this application.

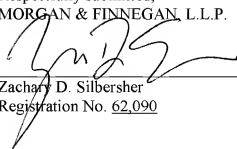
### AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this response to Deposit Account No. 13-4500, Order No. 1232-5393. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

Respectfully submitted,  
MORGAN & FINNEGAN, L.L.P.

Dated: August 20, 2008

By: \_\_\_\_\_

  
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